REMARKS

Claims 1, 3-5, 8-16 and 18-29 are pending in the application. Claims 1 and 19 have been amended to include features from claims 6 and 7. Claims 6 and 7 have been canceled. No new matter has been added. Reconsideration of the claims is respectfully requested.

Provisional Double Patenting Rejections

Claims 1-16 and 18-29 were provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims of copending applications 10/014,278 and 10/014,277.

Applicant notes that these double patenting rejections are provisional. With regard to the rejection based on application 10/014,278, this rejection cannot be addressed until either it, or the present application, is issued as a patent. At that time, Applicant will be able to properly address the provisional double patenting rejection according to MPEP § 804. If this application issues as a patent before application 10/014,278 then, according to MPEP § 804, this application will be allowed and a non-provisional double patenting rejection will be applied to application 10/014,278.

Regarding the rejection based on 10/014,277, which has issued as U.S. Patent No. 6,859,469, Applicant disagrees that there is an issue of obviousness-type double patenting. It is stated in the Office Action that although the conflicting claims are not identical, they are not patentably distinct from each other because the devices claimed in the copending application inherently practice the methods claimed. Applicant respectfully contends that there is no "inherent" practice of the claims of US 6,859,469 in the claims of the present application, as currently amended, and that the claims in this application are patentably distinct from those of the '469 patent.

Claims 1, 15, 19 and 30 of the '469 patent require, *inter alia*, that the fringe-producing optical element comprise a diffractive etalon or a non-parallel etalon comprising one of a non-planar etalon or a Fresnel etalon. There is nothing inherent in any of the independent claims of the present application that one must use the types of etalons listed in the independent claims of the '469 patent. These claims are patentably distinct over the claims of the present case.

Furthermore, in the inventions of claims 1 and 19, the method includes detecting at least three different portions of an interference pattern, and at least three additional portions of the

interference pattern whose phase corresponds to the phase of the at least three different portions. Signals from the at least three different portions and their respective additional portions are summed to produce at least three detection signals that are used to control the wavelength of the laser. Applicant respectfully asserts that practice of any independent in the '469 patent does not require this method of detection as set forth in claims 1 and 19 of the present application. These claims are patentably distinct over the claims of the '469 patent.

Claims 20 and 29 of the present invention are directed to a method that includes detecting at least three different portions of the periodic optical interference pattern, generating a power signal indicative of output power from the laser using the at least three detection signals and stabilizing the wavelength of the light output by the laser using the at least three detection signals. Applicant respectfully asserts that there is nothing in these claims that inherently makes practice of these claims also practice any of the independent claims of the '469 patent. For example, this claim is not limited to use of the particular types of etalons listed in claim 1 of the '469 patent. Similarly, there is nothing in claim 1 of the '469 patent that requires practice of that claim to generate a power signal indicative of laser power. Thus, claims 20 and 29 are patentably distinct over the claims of the '469 patent.

Applicant respectfully requests that the obviousness-type double-patenting rejection based on the '469 patent be withdrawn, since the claims in this case are patentably distinct from the '469 patent.

Conclusions

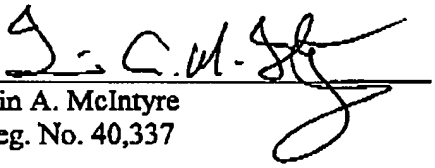
In view of the reasons provided above, it is believed that all pending claims are in condition for allowance. Applicant respectfully requests favorable reconsideration and early allowance of all pending claims.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Iain A. McIntyre at 612-436-9610.

Respectfully submitted,

CCVL P.A.
Customer Number 38846

Date: May 9, 2005

By: 
Iain A. McIntyre
Reg. No. 40,337